IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO.1078 OF 1998

Punjab & Sind Bank ...Plaintiff

Versus

Manishkumar H. Upadhyay & Ors. ...Defendants

Shri Kirit Mody i/by Haridas & Co for the Plaintiff.

CORAM : ABHAY S.OKA, J.
DATED : JULY 25, 2007.

ORAL JUDGMENT:

1. The suit appears on board under the caption of "Undefended Suits for Exparte Decree". The Plaintiff has placed on record the original documents on which reliance has been placed in the plaint. The original documents are taken on record and marked "X" for identification. The suit has been already dismissed as against the 5th and 6th Defendants. Rest of the Defendants are served with the writ of summons and no written statement has been filed.

2. After having perused the averments made in the plaint and the documents on which reliance is placed by the Plaintiff, I find that this is a fit case for invoking sub-rule 2 of Rule 5 of Order VIII of the Code of Civil Procedure, 1908 for passing a decree. However, further interest under section 34 of the Code of Civil Procedure, 1908 will have to be fixed at the rate of 15

per cent per annum.

3. Hence, there will be a decree against the Defendants (except 5th and 6th Defendant) in terms of prayer clauses (a) to (c) and (e) with modification that the interest payable in terms of prayer clause (a) will be at the rate of 15 per cent per annum from the date of the suit till payment of realisation.

4. The Plaintiff will be entitled to refund of court fees, if any, as per rules. Certified copy is expedited.

JUDGE